IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 67 OF 2005

Vidyadhar Govind Patwardhan .. Applicant

Vs.

Krishnaji Dattatraya Velankar .. Respondent

Ms. Rupali Deo for applicant.
Mr. P.S. Dani for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : June 27, 2005.

P.C.:

1. In Special Civil Suit No.428 of 1973 the present respondent-decree holder had filed an application to amend the Execution Application so as to raise the claim to Rs.5 lacs towards the Municipal Taxes of the suit premises and the same was rejected. In C.R.A. No.293 of 2002 this order came to be challenged and the said application was allowed by granting liberty to the plaintiff to carry out the amendment in the Execution proceedings. At that stage the respondent filed an application at Exh.377 under Order 21 Rule 37 of the C.P.C. praying from issuence of notice calling upon the petitioner to show cause as

to why he should not be sent to civil prison for non compliance of the decree. The said application was allowed and a show cause notice was issued against the present applicant. The applicant finally succeeded before the apex court which directed the trial court to adjudicate the amended plaint amount and other legal aspects in the Execution proceedings. At this stage the applicant filed an application at Exh.323 and prayed for a direction for re-measurement of the area already handed over to the decree holder. It was contended that the property of the suit admeasured only 14 ares whereas the total area put in possession of the decree holder admeasured 15 ares. Two more applications at Exh.345 and Exh. 355 were also filed by the present applicant for the same prayer. Ultimately by the impugned order dated 29/3/2005 the Execution proceedings have been disposed of on the ground that decree has been fully satisfied.

2. The grievance made by the applicant at present is regarding the failure of the court below to pass any orders on his applications at Exhs.323, 345 and 355. If that be so, the present Civil Revision

Application is not tenable and the applicant will have to seek other alternative remedy before this court.

3. Hence, the Civil Revision Application is disposed of as withdrawn with liberty as is permissible in law.

(B.H. Marlapalle,J.)